

Remarks

Reconsideration is requested. Claims 28-35 are presented.

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Applicant's arguments presented below focus on certain patentable differences between the invention as claimed and the applied references. However, it is not to be inferred that the failure to argue all differences between the claimed subject matter and the applied references constitutes acceptance of assertions made in the Office Action of alleged similarities between elements of the claimed subject matter and the applied references.

Rejections under 35 U.S.C. 103:

Claims 28-35 are rejected under 35 U.S.C. 103 as being unpatentable over Kowaguchi (U.S. Patent No. 6,201,973) in view of Deluca (U.S. Patent Pub. 2002/0115429). This rejection is respectfully traversed.

Re-issuance of the Office Action is Requested

It is requested that the Office Action of February 15, 2008 be withdrawn and reissued with an appropriate communication that addresses the substance of the Applicant's previously presented reasons traversing the prior art rejection of claim 28 based on Kowaguchi. In the subject Office Action it was stated in the "Response to Arguments" section that:

"Applicant's arguments with respect to claims 28-35 have been considered but are moot in view of the new ground(s) of rejection."

However, mootness of Applicant's arguments is not accurate.

Several of applicant's arguments, which were not based on the claim amendments in the preceding communication, were and remain relevant. For example, in presenting arguments for claim 28, the first element of receiving signals that contain locations for designated geographical areas was explained as not being taught by Kowaguchi. The substance of this argument was not

addressed in the subject Office Action, even though Kowaguchi is still relied upon in the rejection of the subject limitation.

MPEP 707.07(f) Answer All Material Traversed [R-3]

... Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it....

The basis for the rejection relevant to Applicant's previously presented reasons (Kowaguchi), was repeated in the current Office Action.

Also in this section of the MPEP, guidance is given with regard to handling new grounds of rejection.

Arguments Are Moot Because of New Ground(s) of Rejection

Applicant's arguments with respect to claim [1] have been considered but are moot in view of the new ground(s) of rejection.

Examiner Note

The examiner must, however, address any arguments presented by the applicant which are still relevant to any references being applied. (Emphasis added.)

Applicant is entitled to have the substance of the previously presented distinctions addressed so that a determination can be made by Applicant of the merits of the position taken by the Office. Applying a new reference to address some limitations of a claim does not make applicant's arguments moot where the same reference as previously applied is again applied to the limitation to which the arguments were presented.

Therefore, Applicant requests that the Office Action be withdrawn, the distinctions presented relevant to patentability as per Kowaguchi in Applicant's communication of November 28, 2007 be addressed in a further Office Action, and the date for response be reset based on the further Office Action.

If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney at 630-584-9206.

Respectfully submitted,



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